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BEFORE THE  
PHYSICAL THERAPY BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1D-2002-62974

**TAMMY E. McCELLON**  
8 Schlenker  
Lodi, CA 95240

**A C C U S A T I O N**

Physical Therapy Assistant License  
No. AT-4924,

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about December 4, 1997, the Physical Therapy Board issued Physical Therapy Assistant License Number AT 5774 to Tammy E. McCellon ("Respondent"). The Physical Therapy Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2005, unless renewed.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board ("Board"),

1 under the authority of the following sections of the Business and Professions Code ("Code").

2 4. Section 2609 of the Code states:

3 The board shall issue, suspend, and revoke licenses and approvals to practice  
4 physical therapy as provided in this chapter.

5 5. Section 2660 of the Code states:

6 The board may, after the conduct of appropriate proceedings by the examining  
7 committee under the Administrative Procedure Act, suspend for not more than 12 months,  
8 or revoke, or impose probationary conditions upon, or issue subject to terms and conditions  
9 any license, certificate, or approval issued under this chapter for any of the following causes:

10 . . . .

11 (d) Conviction of a crime which substantially relates to the qualifications,  
12 functions, or duties of a physical therapist. The record of conviction or a certified  
13 copy thereof shall be conclusive evidence of that conviction.

14 . . . .

15 (l) The commission of any fraudulent, dishonest, or corrupt act which is  
16 substantially related to the qualifications, functions, or duties of a physical therapist.

17 6. Section 2239 of the Code states:

18 (a) The use or prescribing for or administering to himself or herself, of  
19 any controlled substance; or the use of any of the dangerous drugs specified in section 4022,  
20 or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious  
21 to the licensee, or to any other person or to the public, or to the extent that such use impairs  
22 the ability of the licensee to practice medicine safely or more than one misdemeanor or any  
23 felony involving the use, consumption, or self-administration of any of the substances  
24 referred to in this section, or any combination thereof, constitutes unprofessional conduct.  
25 The record of the conviction is conclusive evidence of such unprofessional conduct.

26 (b) A plea or verdict of guilty or a conviction following a plea of nolo  
27 contendere is deemed to be a conviction within the meaning of this section. The Division  
28 of Medical Quality may order discipline of the licensee in accordance with section 2227 or

1 the Division of Licensing may order the denial of the license when the time for appeal has  
2 elapsed or the judgment of conviction has been affirmed on appeal or when an order granting  
3 probation is made suspending imposition of sentence, irrespective of a subsequent order  
4 under the provisions of section 1203.4 of the Penal Code allowing such person to withdraw  
5 his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,  
6 or dismissing the accusation, complaint, information, or indictment.

7 7. Section 2661 of the Code provides that a plea or verdict of guilty or a  
8 conviction following a plea of nolo contendere made to a charge of a felony or of any offense  
9 which substantially relates to the qualifications, functions, or duties of a physical therapist  
10 is deemed to be a conviction within the meaning of this article. The board may order the  
11 license suspended or revoked, or may decline to issue a license, when the time for appeal has  
12 elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
13 granting probation is made suspending the imposition of sentence, irrespective of a  
14 subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw  
15 his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,  
16 or dismissing the accusation, information or indictment.

17 8. Section 2661.5 of the Code provides in pertinent part that in any order issued  
18 in resolution of a disciplinary proceeding before the Board, the Board may request the  
19 administrative law judge to direct any licensee found guilty of unprofessional conduct to pay  
20 to the Board a sum not to exceed the actual and reasonable costs of the investigation and  
21 prosecution of the case.

22 **FIRST CAUSE FOR DISCIPLINE**  
23 **(Conviction of a Crime)**  
24 **[Bus & Prof Code §§ 2239, 2660(d)]**

25 8. On August 6, 1996, respondent pled no contest to driving with a blood  
26 alcohol level over .08 (.17) in violation of Vehicle Code Section 23152(b) and leaving the scene of  
27 an accident in violation of Vehicle Code Section 20002(a) in Case No. CM01411A before the  
28 Superior Court of San Joaquin County.

9. Respondent's conduct as set forth above constitutes unprofessional conduct

1 within the meaning of sections 2239 and 2660(d) of the Code, conviction of a crime substantially  
2 related to the practice of physical therapy.

3 **SECOND CAUSE FOR DISCIPLINE**  
4 **(Conviction of a Crime)**  
5 **[Bus. & Prof. Code §§ 2239, 2660(d)]**

6 10. On October 18, 2001, respondent pled guilty to one count of petty theft in  
7 violation of Penal Code Section 484 in Case No. LM024555A before the Superior Court of San  
8 Joaquin County. The conviction was based on respondent's theft of a bottle of alcohol from a grocery  
9 store in Lodi, San Joaquin County.

10 11. Respondent's conduct as set forth above constitutes unprofessional conduct  
11 within the meaning of sections 2239 and 2660(d) of the Code, conviction of a crime substantially  
12 related to the practice of physical therapy.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
15 alleged, and that following the hearing, the Physical Therapy Board issue a decision:

16 1. Revoking or suspending Physical Therapy Assistant License Number AT-  
17 4924, issued to Tammy E. McCellon;

18 2. Ordering Tammy E. McCellon to pay the Physical Therapy Board the  
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
20 Professions Code section 2661.5;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: March 08, 2004..

23 Original Signed By:  
24 STEVEN K. HARTZELL  
25 Executive Officer  
26 Physical Therapy Board of California  
27 Department of Consumer Affairs  
28 State of California  
Complainant